

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

2004 OCT 28 P 4:40

TERRY GEXLER  
Plaintiff

v.

UNITED PARCEL SERVICE, INC.  
DefendantU.S. DISTRICT COURT  
DISTRICT OF MASS.MAGISTRATE JUDGE *Den*PETITION FOR REMOVAL

RECEIPT # 59688  
 AMOUNT \$ 150  
 SUMMONS ISSUED YES  
 LOCAL RULE 4.1  
 WAIVER FORM  
 MCF ISSUED  
 BY DPTY. CLK. *Fony*  
 DATE 10/29/04

Pursuant to 28 U.S.C. §§ 1441 and 1446, defendant United Parcel Service Inc.

("UPS") hereby removes to this Court the above action pending in the Superior Court Department of the Trial Court, Suffolk County, Massachusetts (the "Action"). UPS removes this Action by special appearance without waiving any defenses or objections.

Removal of this Action is proper for the following reasons:

1. On or about August 24, 2004, Terry Gexler commenced this Action against UPS in Massachusetts Superior Court in Suffolk County Massachusetts. True and accurate copies of the Summons and the Complaint are filed with this Petition in accordance with 28 U.S.C. §1446 (a) and are attached as Exhibit A.
2. Pursuant to 28 U.S.C. § 1332(a)(1), this Court has original jurisdiction over this Action because the matter in controversy, on information and belief, exceeds the sum or value of \$75,000.00 and is between citizens of different states. The Plaintiff demands \$187,000 in damages, which includes lost wages and medical expenses. (See Superior Court Civil Action Coversheet attached hereto as Exhibit B). The Plaintiff resides in Franklin County, Massachusetts and UPS is a corporation duly organized and

existing under the laws of the state of New York. UPS' principle place of business is not in Massachusetts. No other defendants have been named in the Plaintiff's Complaint.

3. This Petition for Removal is filed with this Court on a timely basis as required by 28 U.S.C. § 1446(b), as it is brought within thirty (30) days of the Plaintiff's service of the Complaint upon UPS.

4. Pursuant to 28 U.S.C. § 1446(d), UPS will promptly serve this Petition for Removal upon the Plaintiff and will file the Notice of this Petition for Removal with the Suffolk County Superior Court in Massachusetts on a timely basis.

WHEREFORE, UPS respectfully requests that this Action be removed to this Court from the Superior Court of the Commonwealth of Massachusetts for the County of Suffolk.

United Parcel Service  
I hereby certify that on this day  
a true copy of the above document  
was served upon the attorney of  
record for each party by mail or hand.  
Date: 10/28/04

United Parcel Service Inc.  
By its attorneys

  
Hugh F. Murray, III, BBO# 557175  
Laurie Alexander-Krom, BBO# 637385  
Murtha Cullina LLP  
99 High Street  
Boston, MA 02110  
617-457-4000

Date: October 28, 2004